Summary of Revisions to Grassland Reserve Program Conservation Easement Deed (12/2004)

Deed Section/Provision Revised	Original Deed Language	Revised Deed Language
SECTION I. RECITALS AND CONSERVATION PURPOSES Paragraph C. Paragraph D.	Terms "preserve and protect" are revised to:Term "water quality" is deleted	 "restore and conserve" added terms "related" and "biodiversity"
Paragraph explaining primary purpose of easement deed	Terms "preservation and protection of natural habitat, wildlife habitat, biodiversity, and other conservation values" are revised to:	"enhancement and protection of wildlife habitat, biodiversity, and other conservation values"
SECTION III. PERMITTED, PROHIBITED, RESTRICTED AND RESERVED ACTIVITIES Paragraph A. Grassland Uses of the Property	 Terms "Grantor reserves the right to graze, hay, harvest for seed production, and mow" has been revised to read: Language in Paragraph A. of old Deed, referring to maintaining existing watering facilities and placement of new watering facilities, has been moved to Section III. Paragraph K. in revised Deed (page 4). 	"Grantor shall be permitted to graze, hay, harvest for seed production, mow, construct firebreaks, conduct fire rehabilitation activities, ad conduct common grazing practices, including maintenance and necessary cultural practices, consistent with the conservation purposes of this Deed." As used in this Deed, the term 'common grazing practices' means those practices customary to the region where the Property is located related to livestock grazing and includes forage management and necessary cultural practices such as the infrastructure required to conduct livestock grazing on the Property

SECTION III. Permitted Uses (cont.) Paragraph D. Crop Cultivation	Terms relating to prohibition of tree and shrub nurseries, fruit or nut producing trees, vineyards, tree farms or plantations, aquaculture, or any agricultural commodity that requires breaking the soil surface have been moved to Section III. paragraph E., Non-Grassland Uses, in revised Deed (page 3).	Terms "non-perennial forages" have been added to revised Deed under paragraph D.
Paragraph E. Incidental Lands (revised Deed)	The original Deed didn't address the use of incidental lands.	Revised Deed contains new paragraph (E) that provides for the enrollment and maintenance of existing incidental lands such as woods and ponds that are necessary to facilitate the easement boundary, as determined by NRCS.
Paragraph E. Topography (original Deed)	Terms in the original Deed referring to topography have been moved to the revised Deed under Section III. G.	Revised Deed (paragraph G.) clarifies language allowing the Landowner to conduct certain activities that alter existing topography, when approved in advance and in writing by NRCS, and such activities are necessary and consistent with the purposes of the Deed.
Paragraph I. Mining (revised Deed)	The original Deed (paragraph G.) prohibited mining activities for extraction of subsurface oil, gas and minerals, if these activities would disturb or gave any effects to the surface of the soil.	Revised Deed (paragraph I.) allows for extraction of subsurface oil, gas and minerals utilizing methods that result in only temporary disturbance to the surface of the soil, when such activities are approved in advance and in writing by NRCS.
Paragraph J. Construction of Buildings, Livestock Facilities of other Structures (revised Deed)	The original Deed (paragraph H.) prohibited the construction of any new buildings or other livestock-related operational structures. Repair of existing facilities were permitted in both Deeds.	Revised Deed (paragraph J.) allows for construction of new livestock-operational facilities (i.e. corrals), when approved in advance and in writing by NRCS.

SECTION III. Permitted Uses (cont.) Paragraph M. Roads & Impervious Surfaces (revised easement)	The original Deed (paragraph K.) provided for maintenance of existing roads but prohibited the construction of any new roads of any kind.	Revised Deed (paragraph K.) provides for the maintenance of existing roads and permits the construction of new roads, as determined in advance and in writing by NRCS, when necessary to conduct common grazing practices, and the viability of grassland and other conservation values are maintained.
Paragraph O. Recreational Uses (revised Deed)	Language referring to Recreational Uses is now found in paragraph O. of revised Deed.	Term "non-motorized" has been removed
Paragraph P. Motorized Vehicle Use (revised Deed)	Original Deed didn't contain specific language on uses of motorized vehicles	Revised Deed (paragraph P.) contains language that prohibits the use of off-road vehicle courses for snowmobiles, motorcycles, ATVs, or other motorized vehicles.
Paragraph U. Utilities (revised Deed)	 Language referring to Utilities in paragraph Q. of original Deed is found under paragraph U. in revised Deed. Original Deed language prohibited the installation of new overhead or underground utilities such as electrical, gas, water, sewer or other public or private utilities. 	Revised Deed (paragraph U.) allows for the installation of new <u>underground</u> utilities, when in approved in writing and in advance by NRCS, when such activities result in only a temporary disturbance to the surface of the soil and are consistent with ensuring the viability of grassland and other conservation values. The construction of wind and solar energy generation facilities may be permitted when used for providing energy for 'on-farm' ranching-related activities.

SECTION III. Permitted Uses (cont.)		
Paragraph V. Water Rights SECTION IV. AFFIRMATIVE DUTIES AND PLANNING REQUIREMENTS	 Language referring to Water Rights found in paragraph R. of original Deed is now found under paragraph V. in revised Deed (page 6). Original language prohibited the transfer, lease, sell, or separation of any water rights from the property. 	Revised Deed allows the landowner to transfer, lease, sell, or separate a portion of those water rights that NRCS determines are in excess of the amount necessary to maintain the functions of the grazing operation, and viability of grassland resources and other conservation values such as wildlife habitat.
Paragraph A. Conservation Plan. SECTION V. ENFORCEMENT	The original Deed contained language that was ambiguous to many Landowners as to the unilateral authority asserted by NRCS for revising conservation plans without the landowners approval.	Revised language clarifies that if it becomes necessary to revise the original conservation plan to reflect changes in the use of the Property that affect the viability of the grassland, the revised conservation plan shall be developed and approved jointly by the Landowner and NRCS.
AND TRANSFERParagraph A. Enforcement	The original Deed, under Easement Management, contained language for allowing NRCS, in its discretion, to enter into an agreement with a third party to carry out responsibilities relating to management, restoration, and enforcement.	The revised Deed deletes this provision in its entirety.
	The original Deed, under Easement Management, provided for the delegation and transfer of the administrative functions to a "Holding" entity such as a private land trust or State agency, with the written permission of the Landowner. This 'Holding' language is now incorporated into	The revised easement reflects changes to the GRP statute made by the 2005 Federal Omnibus Bill, which provides the Secretary of Agriculture authority to transfer ownership of the GRP easement, with the Landowners prior written approval, to a qualified Fasement Holder such as a private.
	 This 'Holding' language is now incorporated into the revised easement under paragraph B. Transfer of Easement Ownership (page 8). 	qualified Easement Holder such as a privat land trust organization, or State Agency.

Paragraph A. Enforcement (cont.)	Original Deed provided for entry of easement property at any time by NRCS to inspect for violations and assess compliance with the conservation plan.	Revised Deed requires NRCS to notify landowner prior to entry of property to inspect for violations and assess compliance with conservation plan, except when NRCS believes there may be a violation of the terms of the Deed.
Paragraph B. Transfer of Easement Ownership (revised Deed)	 Original Deed (under Section V. A. 1. Easement Management) provided for the delegation of easement administrative responsibilities, with the Landowner's permission, to a qualified organization or State agency ('Easement Holder'). Original Deed did not contain a provision to allow for the transfer of easement ownership, to an eligible 'Easement Holder'. 	 Revised Deed language provides authority to the Secretary of Agriculture to transfer easement title ownership, with Landowner's permission, to a qualified Easement Holder. Revised Deed contains language that provides authority to the Secretary of Agriculture to enforce the terms of the easement if the Easement Holder fails. Revised Deed states that in the event the Easement Holder dissolves or attempts to terminate this easement, then all rights, title, and interest shall revert back to the United States of America. Revised Deed assigns conservation planning responsibilities, subsequent to the transfer of ownership of the easement, to the Easement Holder.

SECTION VI. GENERAL TERMS		
Paragraph H. Environmental Warranty	Original Deed language has been revised to clarify adherence to "Environmental Laws" and liabilities for "Hazardous Materials".	
Paragraph I. Indemnification	 Original Deed language has been revised to clarify indemnification provisions. 	